

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): LARSON, Keith N.	Conf. No.: 4111
Application No.: 10/674,515	Art Unit: 2617
Filed: September 30, 2003	Examiner: CONTEE, J. K.
Title: EMERGENCY NOTIFICATION SYSTEM USING PRESENCE, TRIANGULATION, AND WIRELESS TELEPHONY	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF REQUEST FOR PRE-APPEAL BRIEF REVIEW

Sir:

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Navarro in view of Stevens. Claim 1 recites a method for a cell phone service provider to communicate to a cell phone user (who is a member of a class of recipients and is located in a particular local geographical area) an alert message that affects that particular local geographical area. The method includes determining that a user is located in the geographical area and that the user is a member of a class intended to receive an alert. Thus two determinations are required by this claim: whether the user is in a geographic area and whether the user is a member of a class intended to receive an alert.

Applicant previously argued that Stevens shows at most one determination, namely, whether a user is in a geographic location. Once that determination is made, no further determination is made as to whether the user is a member of a class. Defining all users in a given area as members of a class does not show that a second determination is made. Requiring a "determination" as to whether a user is a member of a class necessarily implies that some users could not be members of that class - otherwise no determination would be needed. Claim 1 is submitted to be allowable over this interpretation of the art of record.

The examiner also argues that column 4, lines 35-42, of Stevens supports this rejection. This portion of Stevens indicates that emergency notifications about a user's home area may be sent to customers who are roaming outside their home area. This is not what is recited in claim 1. Claim 1 recites a method for a cell phone service provider to communicate to a cell phone user who is located in a particular local geographical area, an alert message that affects that particular local geographical area, not a message about some other area where the user is not present as in Stevens. Navarro and Stevens do not suggest the invention of claim 1 under this interpretation of the art, and claim 1 is submitted to patentably distinguish over the art for this reason as well.

Claim 5

Claim 5 depends from claim 1 and recites permitting a user to limit the frequency at which said communications are provided to him. The rejection of claim 5 includes the statement that Navarro and Stevens inherently permit users to limit the frequency at which said communications are provided. It is respectfully submitted that the examiner

has not satisfied the requirements of MPEP 2112 because it has not been shown that the missing limitation was necessarily present in the references.

The examiner also argues that allowing a user to determine the type of alert that is received (tornado, thunderstorm, etc.) necessarily permits the user to limit the frequency at which communications are provided. This argument also does not support the rejection of claim 5. The “communications” referred to in claim 5 are the “at least one communication advising him of the alert message” of claim 1. Thus while a user can select the types of alert message to receive, nothing about the references suggests the user can determine the frequency with which communications regarding the alert messages are received. In other words, the fact that a user might choose to receive only tornado warnings does not affect the frequency at which these warnings are received. Claim 5 patentably distinguishes over Navarro in view of Stevens for at least these reasons.

Claim 7

Claim 7 depends from claim 1 and further recites “defining the location of a destination” and “communicating to the user directions from his present location to the destination.” The Office Action indicates that Navarro and Stevens fail to disclose the limitations of claim 7. However, the examiner asserts that it would have been obvious to modify Navarro and Stevens based on Mariner in order to produce the invention of claim 7. Mariner teaches a system for determining the position of a mobile unit. Mariner indicates that knowing the position of a mobile unit might be useful for providing driving directions. This teaching in no manner suggests a modification to Navarro and

Stevens that would define a location of a destination and communicate directions to the destination to the user. At most Mariner would suggest providing Navarro or Stevens with the ability to request driving directions. The combination of Navarro, Stevens and Mariner does not show or suggest the invention of claim 7, and claim 7 is submitted to be allowable for at least this reason.

Wherefore, the allowance of all claims is earnestly solicited.

Respectfully submitted,

/Scott T Wakeman #37750/

Scott L. Lowe
Registration No. 41,458
Scott T. Wakeman
Registration No. 37,750
PO BOX 1364
Fairfax, VA 22038-1364
1.703.621.7140

Date: October 27, 2009